

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DISTRICT**

LAVON GAY,)
)
Plaintiff,)
)
v.) **Case No. 4:18-CV-00529-NCC**
)
CURTIS ANTHONY FORD,)
ANDREW MICHAEL BROWN,)
TIMOTHY NOLAN, and)
ELLIS C. BROWN,)
)
Defendants.)

ORDER

This matter is before the Court for review pursuant to Rule 4(m) of the Federal Rules of Civil Procedure. Review of the record indicates that Defendants Curtis Anthony Ford and Ellis C. Brown have not been served with process.

Plaintiff commenced this action in this Court on April 6, 2018, naming Curtis Anthony Ford and Ellis C. Brown as two of the defendants. (Doc. 1.) On July 24, 2018, the Court directed the Clerk to serve process on the complaint. (Doc. 8.) The Clerk attempted to serve process upon defendants Curtis Anthony Ford and Ellis C. Brown, as Plaintiff identified them as a police officers employed by the City of St. Louis. However, counsel for the City of St. Louis declined to waive service as to these defendants because they no longer work there. Counsel subsequently provided the Court with Curtis Anthony Ford's and Ellis C. Brown's last known addresses, and the Court directed the Clerk to effectuate service of process there. (Doc. 17.)

On November 11, 2018, service was returned unexecuted for Curtis Anthony Ford, and the return of service indicated that no one by that name lived at that address. On November 15, 2018, service was returned unexecuted for Ellis C. Brown, and the return of service indicated that no one by that name lived at that address.

Rule 4(m) of the Federal Rules of Civil Procedure provides:

If a defendant is not served within 90 days after the complaint is filed, the court -- on motion or on its own after notice to the plaintiff -- must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

In the case at bar, it has been more than 90 days since Plaintiff filed his complaint naming Curtis Anthony Ford and Ellis C. Brown as defendants, and the Court has attempted service twice without success. As noted above, Rule 4(m) of the Federal Rules of Civil Procedure provides that the Court, after notice to a plaintiff, shall dismiss an action against any defendant upon whom service has not been timely made. In light of Plaintiff's pro se status and in forma pauperis litigant, he will be given the opportunity to provide the Court with adequate information such that defendants Curtis Anthony Ford and Ellis C. Brown may be timely served under Rule 4(m). Plaintiff's response to the Court is due no later than 21 days from the date of this Order.

Accordingly,

IT IS HEREBY ORDERED that, no later than 21 days from the date of this Order, Plaintiff shall provide the Court with adequate information such that defendants Curtis Anthony Ford and Ellis C. Brown may be served with process.

IT IS FURTHER ORDERED that, in the absence of good cause shown, Plaintiff's failure to timely respond to this Order shall result in the dismissal of defendants Curtis Anthony

Ford and Ellis C. Brown from this cause of action, without prejudice, pursuant to Rule 4(m) of the Federal Rules of Civil Procedure.

Dated this 20th day of November, 2018.

/s/ Noelle C. Collins
NOELLE C. COLLINS
UNITED STATES MAGISTRATE JUDGE